

REMARKS

By the present response, Applicant has resubmitted original Claims 1-18, which remain pending in the present application. Claims 1, 7, and 13 are independent claims.

Before discussing the substance of the Examiner's Office Action, it is noted that PTOL Form- 326 lists "Claims 1-18" as pending in the application. However, on pages 2 and 3 of the Office Action, the Examiner states that "Claims 1-36 are rejected...". Since only Claims 1-18 were filed with the original application, it is apparent that the Examiner intended the rejections to be applicable to Claims 1-18, and are hereinafter referred to as such by Applicant.

In the recent Office Action the Examiner rejected Claims 1-18 under 35 U.S.C. § 112, second paragraph, as being indefinite. Applicant respectfully submits that Claims 1-18 meet the specific requirements of 35 U.S.C. § 112, second paragraph. The second paragraph of the Statute states, *inter alia*, the claims are drafted by the Applicant in a manner that the Applicant regards as the invention. MPEP §§ 2173 and 2173.01 clearly point out that Applicant's are their own lexicographers. Applicant has used the term "add-on fee" to define this aspect of the invention. The term is clearly defined in the disclosure; see for example pages 11 and 12 and Fig. 3A. The claimed "add-on fees" should be interpreted as disclosed in Applicant's disclosure and NOT as closing fees suggested by the Examiner. It is noted that the Examiner did not find the specification lacking in compliance with the first

paragraph of the Statute. In summary, Applicant contends that the claims meet the requirements of §112, second paragraph, and that the rejection should be withdrawn.

In the Office Action the Examiner rejected Claims 1-18 under 35 U.S.C. § 102 (b) as being anticipated by Oppenheimer (US 5,644,726). This rejection is respectfully traversed. The presently claimed invention is patentably distinguishable from the cited and applied prior art. Reconsideration of the present application is respectfully requested. Applicant's arguments are specifically directed to independent Claims 1, 7, and 13. In each of these claims the recited features are intended to provide the necessary documents to the mortgage broker to determine mortgage loan underwriting conditions and computing mortgage loan fees. As pointed out below, the Oppenheimer reference fails to disclose/anticipate the claimed features:

- the Web page has a plurality of drop-down list boxes from which a user displays and selects parameters for a mortgage loan. The Examiner states that the drop-down boxes are disclosed in Oppenheimer's Fig. 3. However, there is no disclosure of drop-down boxes in Fig. 3 or in the corresponding text of the specification. The Examiner also refers to Table 1, variables "u" and "x" as examples of drop-down list boxes. However, there is no disclosure that these variables were selected from a drop-down list. Therefore, there is no anticipation of claimed structure.
- a script routine for calculating mortgage loan add-on fees based on the parameters selected from the drop-down list boxes. The Examiner has misinterpreted Applicant's add-on fees as closing fees. The Table 2 fee

disclosed by Oppenheimer is \$563 [under the heading Fee (C)] is also shown in Table 2A under column C as fee “*ar*”. As seen in Table 1, variable “*ar*” is \$562.50 (rounded to \$563 in Tables 2 and 2A) and is defined as the **amount of fee assessed (if any) on total mortgage financing**. The “*ar*” fee is calculated as $ar = k * (at \div aq)$. Therefore, it can be seen that Oppenheimer’s fee is NOT an add-on fee based on the parameters selected from NON-EXISTENT drop-down list boxes. Applicant’s add-on fees are not the borrower’s final or total fees as is the situation in Oppenheimer.

- when the add-on fees are correctly interpreted in light of the disclosure, the Examiner will appreciate the fact that Applicant’s fees are taken from different variables selected from the drop-down lists. As shown in Applicant’s Fig. 3, element 195, each add-on fee is a percentage add-on and not a dollar value. Each variable has a specific add-on that is based on the specific loan scenario. In contradistinction, Oppenheimer’s fee is derived as a dollar calculation and is taken from the total loan closing fee using a specific formula as noted above. Applicant’s add-on fees are done by simply adding all the corresponding fees assigned to a specific drop-down variable; there is no formula used to calculate the amount of the fee as is required in Oppenheimer. Furthermore, the corresponding fees used by the add-on are percentages and are based on the risk of the specific variable in the specific loan scenario. For example:

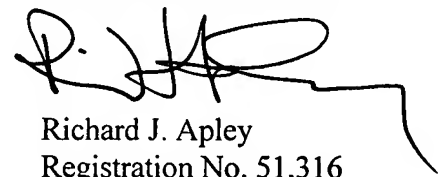
- (i) a “full-doc” loan may have a .125 add-on fee;

- (ii) a "stated/verified" loan may have a .375 add-on fee;
- (iii) a "FICO" score selected parameter of 620 may have a .75 add-on fee and a 700 "FICO" may have a .25;
- (iv) a single family residence may have a .125 add-on fee; and a 3-unit home may have a .625 add-on fee.

Once all the variables are selected then the corresponding add fees are added together which will become the broker's cost for doing that loan. The broker will then add the broker fee to the add-on fee and that fee will then be quoted to the borrower.

For the foregoing reasons, Applicant respectfully submits that the claims were improperly rejected under 35 U.S.C. 102 (b). Applicant submits that the present application is in condition for allowance. If such is not the case, the Examiner is requested to kindly contact the undersigned in an effort to satisfactorily conclude the prosecution of this application.

Respectfully submitted,



Richard J. Apley
Registration No. 51,316
(703) 486-1000

RJA:dht

Attachments: Petition for Extension of Time
Check in the Amount of \$60.00